

NO. 44,365-B

THE STATE OF TEXAS  
VS.  
ERNEST LOPEZ, II

§ IN THE 181<sup>st</sup> DISTRICT COURT  
§  
§ IN AND FOR  
§  
§ POTTER COUNTY, TEXAS

**COURT'S CHARGE TO THE JURY ON GUILT-INNOCENCE**

LADIES AND GENTLEMEN OF THE JURY:

The defendant, ERNEST LOPEZ, II, stands charged by indictment with the offense of Aggravated Sexual Assault of a Child alleged to have been committed in Potter County, Texas, on or about the 28th day of October, 2000.

To this indictment, the defendant, ERNEST LOPEZ, II, has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

I.

Our law provides that a person commits the offense of Aggravated Sexual Assault of a Child if the person intentionally or knowingly causes the penetration of the female sexual organ of a child who is younger than fourteen (14) years of age, by any means.

"Child" means a person younger than seventeen (17) years of age who is not the spouse of the actor.

"Spouse" means a person who is legally married to another.

II.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or

Filed at \_\_\_\_\_ o'clock M  
Caroline Woodward

APR 23 2003

District Clerk, Potter County, Texas  
By \_\_\_\_\_ Deputy

with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

III.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 28th day of October, 2000 in Potter County, Texas, the defendant, ERNEST LOPEZ, II, did then and there intentionally or knowingly cause the penetration of the female sexual organ of Isis Charm Vas, a child who was then and there younger than 14 years of age, by an object unknown to the Grand Jurors, then you will find the defendant guilty of Aggravated Sexual Assault of a Child as alleged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict, "Not Guilty".

IV.

A grand jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the defendant. The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the defendant.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at his trial. The law does not require a defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

The prosecution has the burden of proving the defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt and, if it fails to do so, you must acquit the defendant.

It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

In the event you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty."

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you must be governed by the law you shall receive in these written instructions.

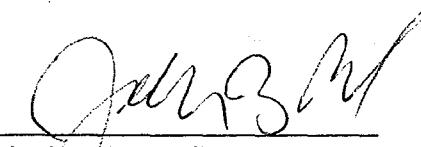
After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his or her duty to preside at your deliberations, vote with you, and, when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto and signing the same as Presiding Juror.

During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed by the Presiding Juror and shall be submitted to the Court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.

  
\_\_\_\_\_  
Judge Presiding  
4/2/07

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**VERDICT FORMS**

**(1) VERDICT OF THE JURY**

We, the jury, find the defendant, ERNEST LOPEZ, II, not guilty of the offense of Aggravated Sexual Assault of a Child.

\_\_\_\_\_  
Presiding Juror

**(2) VERDICT OF THE JURY**

We, the jury, find the defendant, ERNEST LOPEZ, II, guilty of the offense of Aggravated Sexual Assault of a Child as charged in the indictment.

*Knowles A. Mathe*  
Presiding Juror

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